

Message Text

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PAGE 01 MANILA 04462 251256Z

ACTION EA-09

INFO OCT-01 ISO-00 PM-04 INR-07 CIAE-00 L-03 PA-02

USIA-15 PRS-01 /042 W

-----260234Z 101039 /62

R 250939Z MAR 77

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 7622

INFO SEC DEF WASHDC

CSAF JACI

NAVY JAG WASHDC

CINCPAC

CINCPACAF

CINCPACFLT

CINCPACREPPHIL

13 AF CLARK AB

3 CSG CLARK RP

NLSO SUBIC RP

UNCLAS MANILA 4462

E.O. 11652: N/A

TAGS: MARR, PFOR, RP, US

SUBJ: OFFICIAL DUTY CASES (VERPLAETSE, KING AND KIRWAN)

REF: (A) MANILA 1685; DTG 030233Z FEB 77;

(B) MANILA 1612; DTG 020300Z FEB 77;

(C) STATE 019702; DTG 281550Z JAN 77;

(D) 3CSG MSG DTG 210200Z SEPT 76 (NOTAL);

(E) 3CSG MSG DTG 090902Z SEPT 76 (NOTAL);

(F) 13AF MSG DTG 281020Z AUG 76 (NOTAL);

(G) MANILA 12624; DTG 200353Z AUG 76;

(H) STATE 206692; DTG 192145Z AUG 76.

1. EMBASSY IN RECEIPT OF DFA NOTE PROTESTING THE ISSUANCE
OF CERTIFICATES OF OFFICIAL DUTY IN THREE SEPARATE CASES
INVOLVING SPECIAL AGENT ROBERT KING, USAF OFF-BASE SEARCH,
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(REFTELS D, E, F); COMMANDER RONALD A. VERPLAETSE, USN,
ALLEGED BX STRIP SEARCH, (REFTELS G AND H); AND COPORAL
STEVEN KIRWAN, USMC, FATAL SHOOTING OF INTRUDER,
(REFTELS A, B, C).

2. FOUR PAGE DFA NOTE DESCRIBES THE GENERAL CIRCUMSTANCES
CONCERNING THE ABOVE CITED CASES AND STATES THAT WHILE THESE

CASES HAVE BEEN SUBJECT OF REPEATED DISCUSSION BY THE US/RP CRIMINAL JURISDICTION IMPLEMENTATION COMMITTEE, NO AGREEMENT COULD BE REACHED BY THE PHILIPPINE AND AMERICAN PANELS.

3. DFA BRIEFLY REVIEWS GOP POSITION AS FOLLOWS:

(A) VERPLAETSE CASE: THERE WAS NO EVIDENCE COMPLAINANTS WERE PILFERING BX MERCHANDISE; THEREFORE, ORDER TO SEARCH ILLEGAL AND UNREASONABLE. THIS WAS FURTHER AGGRAVATED BY MANNER SEARCH CONDUCTED.

(B) KING CASE; PROVISIONS OF MILITARY BASES AGREEMENT DO NOT IMPLY ANY RIGHT FOR US MILITARY TO EXERCISE JURISDICTION OVER PHILIPPINE CITIZENS, WHO ARE NOT MEMBERS OF US MILITARY, AND CERTAINLY US MILITARY DOES NOT POSSES "A ROVING COMMISSION TO CONDUCT AN OFF BASE SEARCH IN AN APARTMENT LEASED BY A FILIPINO NATIONAL."

(C) KIRWAN CASE: NEITHER PHILIPPINE NOR US LAWS WOULD SANCTION THE USE OF DEADLY FORCE UNDER THE CIRCUMSTANCES.

4. PENULTIMATE SENTENCE OF NOTE READS AS FOLLOWS:

QUOTE - THE PHILIPPINE GOVERNMENT WISHES TO PROTEST THE AFOREMENTIONED ISSUANCE OF THE CERTIFICATES OF OFFICIAL DUTY TO THE PERSONS CONCERNED BECAUSE IT IS IN VIOLATION OF THE PERTINENT PROVISIONS OF THE RP/US MILITARY BASES AGREEMENT, AS AMENDED. THE PHILIPPINE GOVERNMENT WOULD LIKE TO SUGGEST THAT THESE THREE CASES UNCLASSIFIED

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BE CAREFULLY REVIEWED BY THE HIGH AMERICAN AUTHORITIES IN ORDER THAT THEY MAY PERCEIVE THE MERITS OF THE POSITION OF THE HOST-STATE. UNLESS CORRECTIVE MEASURES ARE TAKEN, THESE CASES, AND SIMILAR ONES WHICH MAY LATER ARISE, ARE BOUND TO CONTRIBUTE TO THE EROSION OF THE GOOD RELATIONS BETWEEN THE TWO COUNTRIES. END QUOTE.

5. DFA RELEASED NOTE TO MEDIA PRIOR TO RECEIPT BY EMBASSY ALTHOUGH WE HAD BEEN FOREWARNED OF NOTE BY DEPARTMENT OF JUSTICE. RELEASE OF NOTE GARNERING MUCH PUBLICITY IN ALL DAILY PHILIPPINE NEWSPAPERS.

6. EMBASSY IS DRAFTING REPLY TO NOTE WHICH WILL CITE US MILITARY POSITION ON EACH CASE AND CONTAIN SPECIFIC FACTS THAT WERE CONVENIENTLY LEFT OUT OF DFA NOTE. EMBASSY WILL THEN SUGGEST DIPLOMATIC LEVEL DISCUSSION WOULD APPEAR APPROPRIATE.

7. DFA AND EMBAFVY NOTES WILL BE POUCHED TO ALL ADDRESSEES.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
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Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
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